

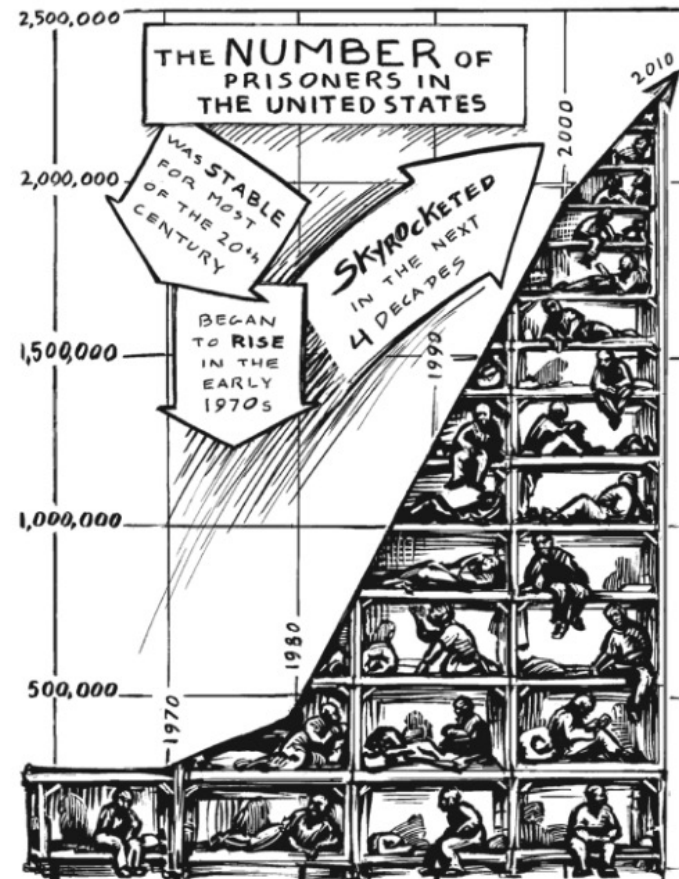


Addressing Racial Disparities in Youth Justice

Brooke Burns, *Office of the Ohio
Public Defender*

U.S. Prison Population

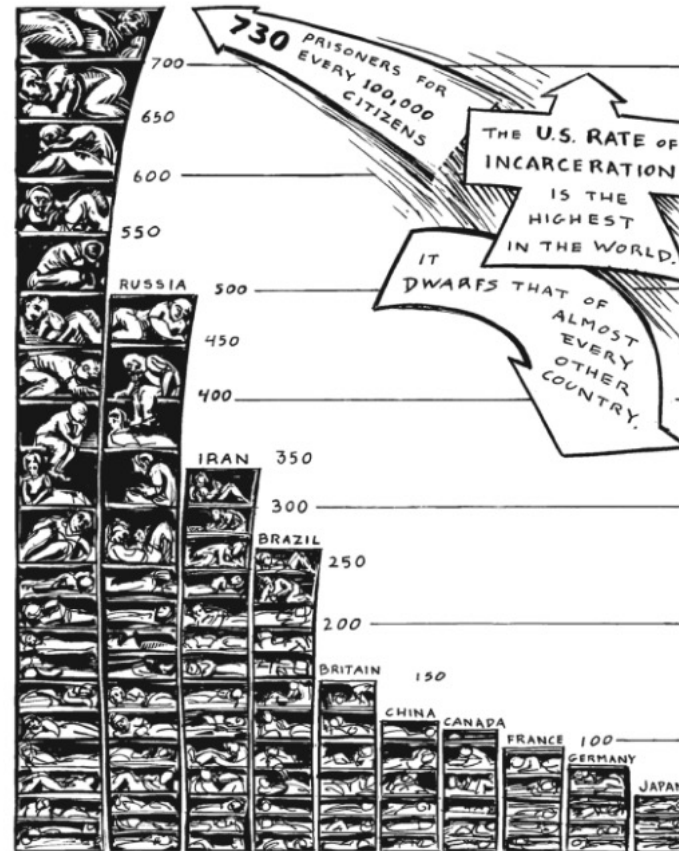
- 700% growth between 1972 and 2009
- Today = 2.3M incarcerated people
- 4x larger than in 1980



Illustrations from *Race to Incarcerate: A Graphic Retelling*, Copyright © by The New Press, based on *Race to Incarcerate* by Marc Mauer © 1999, 2006 by The Sentencing Project "Kemba Smith: A Case of Extreme Sentencing" © 2013 by Sabrina Jones. Used with Permission.

Global Perspective

- ❑ Largest prison population in the world
- ❑ Largest per capita (730 per 100,000)



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How did this happen?

THE RISE OF THE



MOVEMENT

Prison Boom

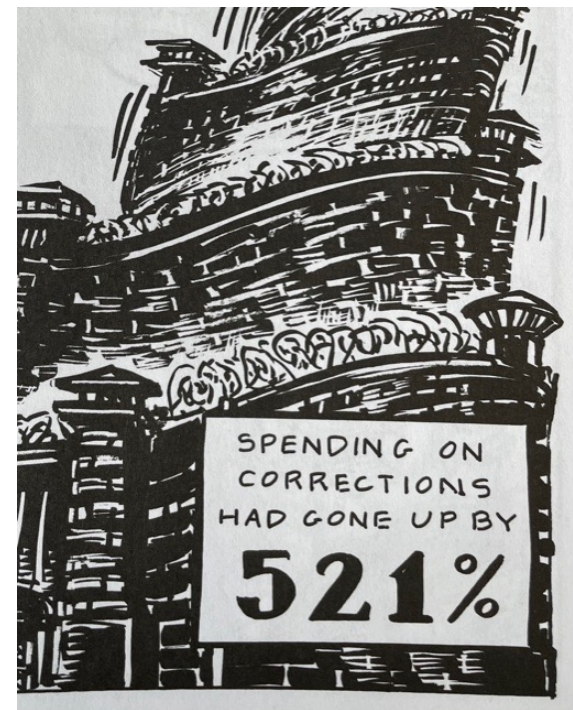
1973 – mandatory minimum sentences

- New York
- Massachusetts
- Michigan

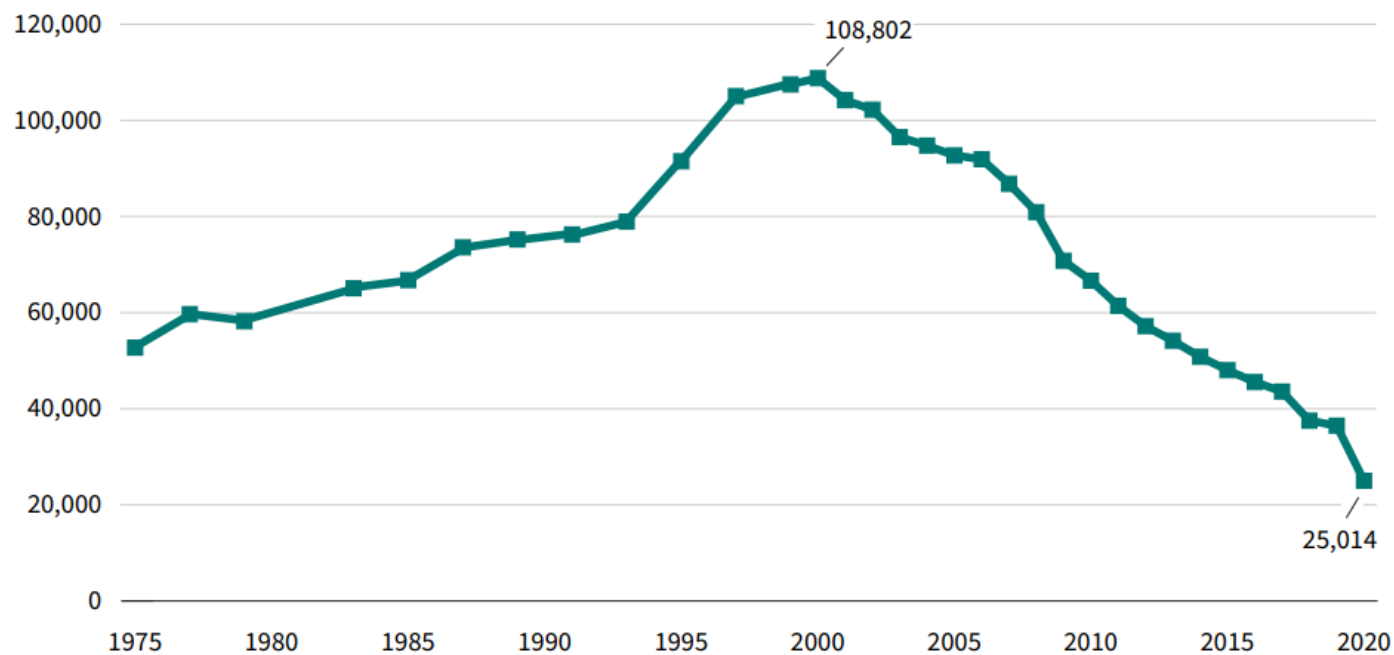
Disparate penalties based on near-identical crimes

The War on Drugs

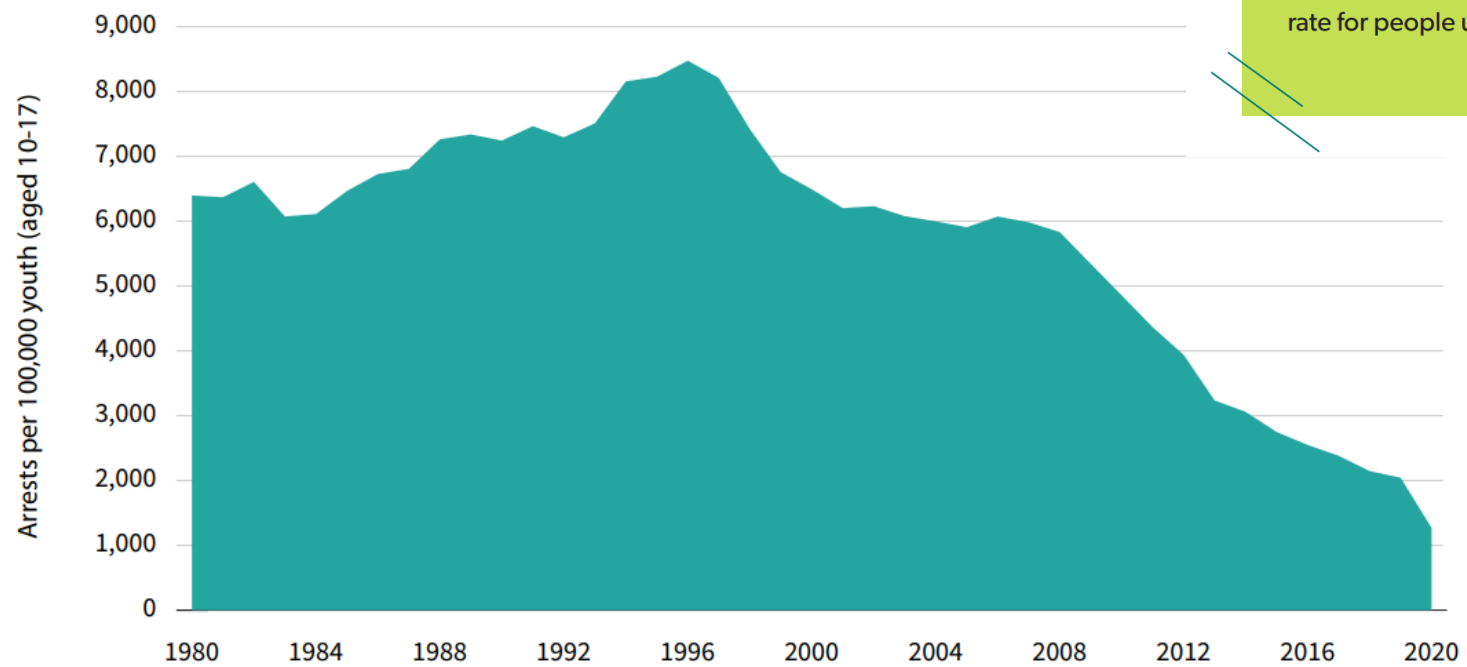
Rise of the super-predator myth



One-Day Count of Youth Held in Juvenile Justice Facilities, 1975-2020



Youth Arrest Rates, 1980-2020



Since 1996, there has been an 80% drop in the arrest rate for people under 18.

Youth Crime is Still Trending Down

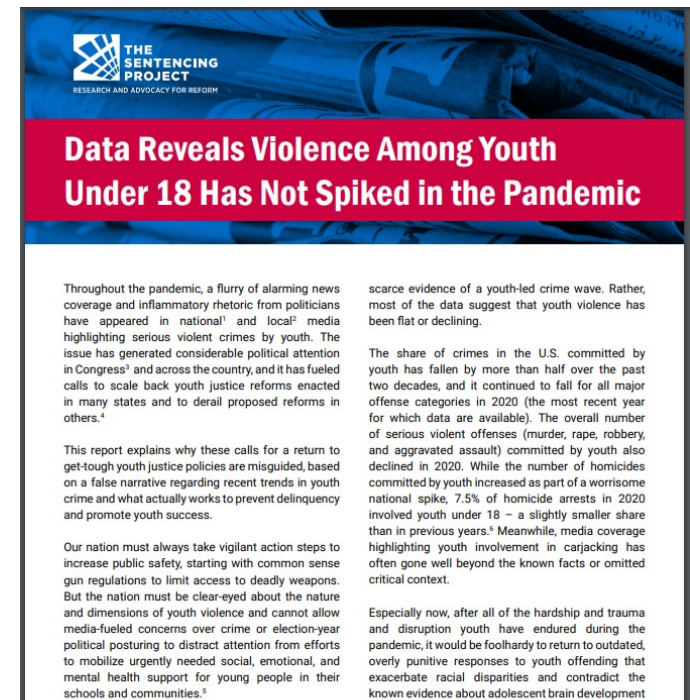
<https://www.sentencingproject.org/app/uploads/2022/10/Data-Reveals-Violence-Among-Youth-Under-18-Has-Not-Spiked-in-the-Pandemic.pdf>

Crimes committed by youth in the U.S. has fallen by more than half over the last two decades and continued to fall in all major categories in 2020.

In 2000, 15% of all arrests nationwide were by people under 18. By 2019, the share had fallen to 7%.

The overall number of serious violent crimes committed by youth also declined in 2020.

Youth reduction in crime has fallen significantly more than reductions in adult crime.




Youth Crime is Still Trending Down

The myths are largely grounded in the “Kia Boys” media phenomenon, giving the false impression that “carjackings” are on the rise.

The truth – even robberies (of which carjackings are a subcategory) declined in 2020.

Concerning homicides: in total, homicide numbers have increased for adults and juveniles in 2020—increasing in proportion to increased gun sales; BUT, the percentage share attributable to youth declined from 2019 and prior years.



THE SENTENCING PROJECT
RESEARCH AND ADVOCACY FOR REFORM

Data Reveals Violence Among Youth Under 18 Has Not Spiked in the Pandemic

Throughout the pandemic, a flurry of alarming news coverage and inflammatory rhetoric from politicians have appeared in national¹ and local² media highlighting serious violent crimes by youth. The issue has generated considerable political attention in Congress³ and across the country, and it has fueled calls to scale back youth justice reforms enacted in many states and to derail proposed reforms in others.⁴

This report explains why these calls for a return to get-tough youth justice policies are misguided, based on a false narrative regarding recent trends in youth crime and what actually works to prevent delinquency and promote youth success.

Our nation must always take vigilant action steps to increase public safety, starting with common sense gun regulations to limit access to deadly weapons. But the nation must be clear-eyed about the nature and dimensions of youth violence and cannot allow media-fueled concerns over crime or election-year political posturing to distract attention from efforts to mobilize urgently needed social, emotional, and mental health support for young people in their schools and communities.⁵

scarce evidence of a youth-led crime wave. Rather, most of the data suggest that youth violence has been flat or declining.

The share of crimes in the U.S. committed by youth has fallen by more than half over the past two decades, and it continued to fall for all major offense categories in 2020 (the most recent year for which data are available). The overall number of serious violent offenses (murder, rape, robbery, and aggravated assault) committed by youth also declined in 2020. While the number of homicides committed by youth increased as part of a worrisome national spike, 7.5% of homicide arrests in 2020 involved youth under 18 – a slightly smaller share than in previous years.⁶ Meanwhile, media coverage highlighting youth involvement in carjacking has often gone well beyond the known facts or omitted critical context.

Especially now, after all of the hardship and trauma and disruption youth have endured during the pandemic, it would be foolhardy to return to outdated, overly punitive responses to youth offending that exacerbate racial disparities and contradict the known evidence about adolescent brain development.

Youth Crime is Still Trending Down

<https://ojjdp.ojp.gov/publications/trends-in-youth-arrests.pdf>.

Youth arrests for violent crime fell 56% over the last 10 years, compared to adult arrests, which dropped only 6%.

Young adults aged 18-24 accounted for three times the share of violent crime arrests as those under 18.

In 2020, youth's share of robbery was at its lowest level since 1980.

The proportion of aggravated assault arrests involving youth has declined since 2008.

But, youth *victims* of homicide increased 30% from 2019 – 2020.



Even after recent reductions, our use of incarceration for young people sets us apart from other nations.

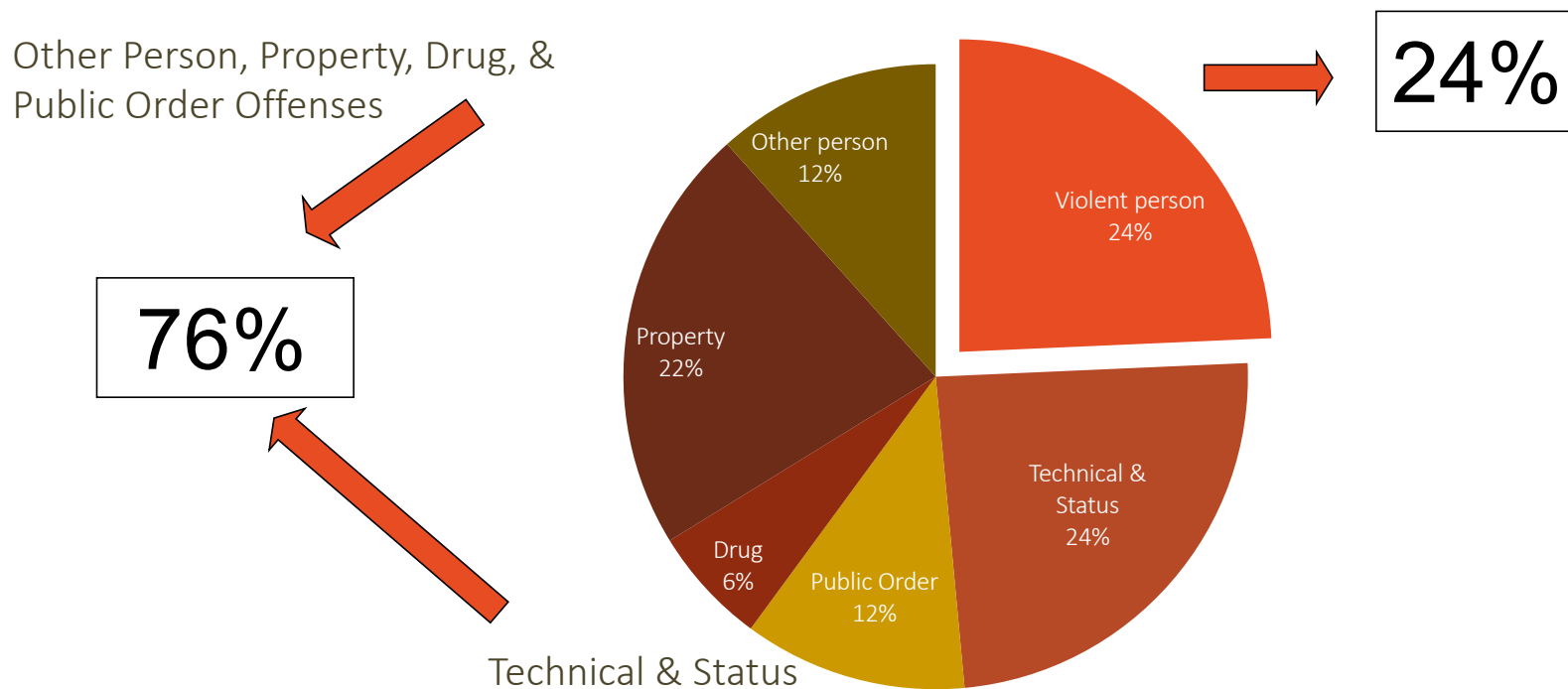


The mass confinement of children in the United States is a distinctively American practice, unmatched in any other Western democracy

SOURCE: Hazel, Neal, Cross-National Comparison of Youth Justice (London: Youth Justice Board, 2008).

*Note that the USA rate is updated to reflect the most recent national data, while other rates are based on the 2008 study

Most DETAINED Youth do not pose a serious public safety threat*



*Violent person include homicide, violent sexual assault, robbery and Ag. Assault. Other Person includes simple assault.

Property crimes include burglary, theft, auto theft, arson.

Source: Sickmund, M., Sladky, T.J., Kang, W., & Puzzanchera, C. (2013). "Easy Access to the Census of Juveniles in Residential Placement." Available: <http://www.ojjdp.gov/ojstatbb/ezacjrp/>

Ohio's Historical View

In 2002, 143,075 delinquency cases went through Ohio's juvenile courts

- Ohio's youth prisons housed more than 2,000 youth
- Federal lawsuit in 2003 resulted in massive reform/overhaul

Youth crime also plummeted as we left behind the super-predator myth

By 2017, delinquency filings in juvenile court dropped to 69,008

- Youth prison population got as low as the 340s before 2020
- ODYS prison population is around 525



The Makeup of Ohio Youth in DYS

LENGTH OF COMMITMENT

- 30% are serving minimum commitments of three years or more
- 16% are serving between two years and three
- 20% are serving one and two years
- 34% are serving less than one year

OFFENSE TYPE

5% are serving mandatory time for a homicide offense

19% have a mandatory 3-yr or 5-yr commitment for using a firearm

9% of youth have a non-mandatory 2-yr commitment for firearm use

29% of youth have a non-mandatory 1-yr commitment for firearm use

The Makeup of Ohio Youth in DYS

- 86% of those adjudicated and 92.3% of those committed are male.
- 53.7% of those adjudicated and 62.7% of those committed are Black.
- 38.6% of those adjudicated and 22.5% of those committed are white.
- 71% of the boys admitted are on the mental health caseload.
- 100% of the girls admitted are on the mental health caseload.
- Within three years of release, 43.2% of youth return to youth prison or enter DRC

Ohio Trends in Youth Offending

From FY11-FY20 steady decline in felony adjudications for youth

In FY20 transfer cases were fewer than in FY11

SCO data from 2013-2022

- Delinquency filings fell from 72,078 to 35,470
- Felony adjudications fell from 4,636 to 3,182
- FY2020: 3,075; FY2021: 3,075; FY22: 3,182.
- 3.5% Increase
- But, current rates suggest the increase was a blip, not a spike, surge, or new normal

Consistent with National trends



Ohio Admissions Far Exceed Youth Offending

525 youth currently in DYS custody: www.data.ohio.gov

FY23 Admissions: 173

FY24 to date (July 2023 – Present): 201

- 133% increase from the same period in FY23

That increase far exceeds the actual offending rate increase

FY23, 36% of youth F3-F5

FY24, 35% of youth to date F3-F5

A REGIONAL PROBLEM

- The Midwest had detention rates that were 60% higher than other regions in 2020. Since then, that gap has widened to 80% higher.
- Black and Brown youth are being held significantly longer than white youth
- <https://assets.aecf.org/m/resource/doc/aecf-changingcourse-2023.pdf>

The Impact of Over-Incarceration

More than 6 months increases recidivism

2020 study: 33% increase in repeat felony

Reduces likelihood of high school graduation

Traumatizes youth

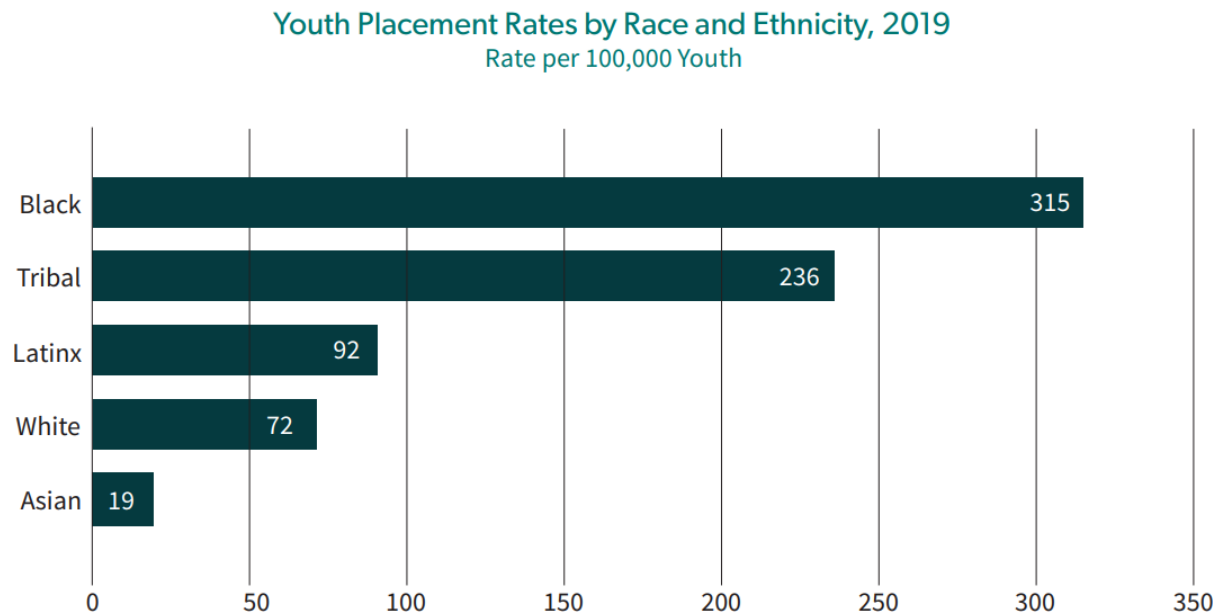
Disproportionate rep of Black and Brown youth, youth with Mental Health needs, and youth who are LGBTQIA+

Increases risk for low-risk and moderate-risk youth



Overpoliced Youth = Disproportionately Overpoliced Youth of Color

- Black and Brown youth are disproportionately
 - Referred to juvenile court
 - Formally processed
 - Detained
 - Violated on probation
 - Given incarceration as a disposition
 - Waived to adult court



Source: Sickmund, M., Sladky, T.J., Puzzanchera, C., & Kang, W. (2022). *Easy access to the census of juveniles in residential placement*. Office of Juvenile Justice and Delinquency Prevention.

Statistical data available at: <http://www.jjgps.org/racial-fairness#indicator-data>

Racial and Ethnic Disparities in Youth Justice

<https://www.aecf.org/blog/youth-detention-and-the-pandemic>

Black youth are now TEN TIMES more likely to be detained than their white peers (formerly it was six times as likely)

Detention overall has returned to its pre-pandemic level, but for Black youth has surpassed it

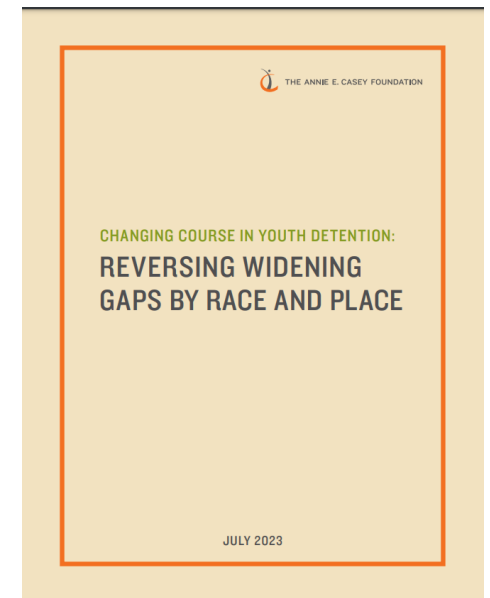
The largest increase in detention *and* in disparate detention rates has occurred in the Midwest

Black youth are also being held longer than their white counterparts

Detention odds depend largely on youth's race, their region, and the jurisdiction where they live

Differences in offense patterns don't explain disparities in detention by race or

Non-white youth referred to juvenile courts are more likely to be detained than similarly situated white youth across every category of offending



Racial and Ethnic Disparities in Youth Justice

<https://www.sentencingproject.org/app/uploads/2023/05/Youth-Justice-by-the-Numbers.pdf>

Black youth are 2.3 times more likely to be arrested than white youth.

Once referred to juvenile court, white youth are 29% more likely to have their cases diverted while Black youth are 50% more likely to be locked up while their case is pending.

Among all youth who are adjudicated delinquent, Black youth are 58% more likely to be committed to a youth prison than white youth.



[illegible]

A Tale of Two Felonies



A Tale of Two Felonies



A Tale of Two Felonies

FERRIS BUELLER'S DAY OFF

Teenagers

Stealing a luxury car (Ferrari)

Opportunist Ringleader

Comedic/Lighthearted

Cool/Harmless/Justifiable

Boyish mischief

THE WIRE

Teenagers

Stealing a luxury car (Escalade)

Opportunist Ringleader

Dangerous

Gang related

Delinquent

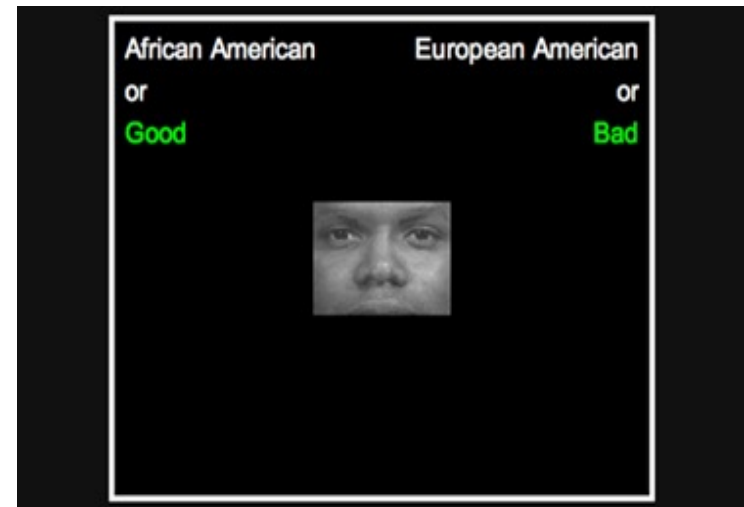
Implicit Racial Bias

HOSTILITY, NERVOUSNESS, AND FURTIVE GESTURES

Several studies have found that individuals are more likely to interpret ambiguous behavior by Black people as

- More aggressive
- Consistent with violent intentions

While interpreting the same behavior by white people as harmless



IRB Research: Perceptions of Hostility

Study: Participants viewed brief movie clip in which a target's facial expression morphed from unambiguous hostility to unambiguous happiness and vice versa in a second clip.

- Participants with higher levels of implicit bias took longer to perceive black faces change from hostile to friendly, but not white faces.
- In the second clip, participants perceived the onset of hostility much earlier for black faces than white faces.

Kurt Hugenberg & Galen V. Bodenhausen, *Facing Prejudice: Implicit Prejudice and the Perception of Facial Threat*, 14 PSYCH SCI 640-643 (2003).

IRB Research: Perception of Weapons

Study: Participants viewed series of Black or white faces and then determined whether the faint outline of an ambiguous object that slowly emerged on the screen was crime-related or neutral.

- Participants were quicker to see a crime-related object when associating the object with a Black face than with a white face.

Jennifer L. Eberhardt, et al., *Seeing Black: Race, Crime, and Visual Processing*, 87 J. PERSONALITY & SOC. PSYCHOL. 876, 881(2004)

IRB Research: Misremembering Facts in Racially Biased Ways

IRB causes people to misremember and recall facts in racially biased ways.

Study: When asked to recall facts from a fictional story, mock jurors were significantly more likely to recall the fictional defendant as being aggressive when he was Black than when he was white or Hawaiian.

Justin D. Levinson, *Forgotten Racial Equality: Implicit Bias, Decisionmaking, and Misremembering*, 57 DUKE L.J. 345, 347-50 (2007).

IRB Research: Perceptions of Youth of Color



The general public:

Perceived African American felony suspects as **4.53 years older** than they actually were

Perceived white youth as **less culpable** when suspected of a felony than when suspected of a misdemeanor

Among law enforcement:

Also rated African American felony suspects as **4.59 years** older than they actually were

Also perceived white youth as **less culpable** when suspected of a felony than when suspected of a misdemeanor

IRB Research: Perceptions of Youth of Color

Subjects perceived

- Youth ages 0-9 as equally innocent, regardless of race
- Black children as significantly less innocent than other children at every age group, beginning at the age of 10
- Innocence of Black children age 10-13 equivalent to that of other children age 14-17
- Innocence of Black children age 14-17 equivalent to that of non-Black children age 18-21

Perception Impacts Behavior

Implicit racial biases are pervasive

Implicit associations do not necessarily align with our declared beliefs

We generally hold implicit biases that favor our own ingroup

Implicit biases are malleable

Year ▲	Black	Latino	Native American	Asian	Other	All youth of color	All youth
1997	351	96	98	43	0	298	100
1999	326	137	0	20	0	282	99
2001	320	88	0	19	0	270	99
2003	265	72	0	18	0	224	92
2006	308	62	0	0	0	258	94
2007	327	66	85	0	0	269	99
2010	234	40	0	14	0	188	75
2011	232	46	0	14	0	189	74
2013	243	51	0	0	0	188	77
2015	275	43	0	0	0	208	81
2017	234	39	0	10	0	182	74

Please note: Imputation is used to address missing information about youth characteristics including race/ethnicity data. [See our About page to learn more](#)

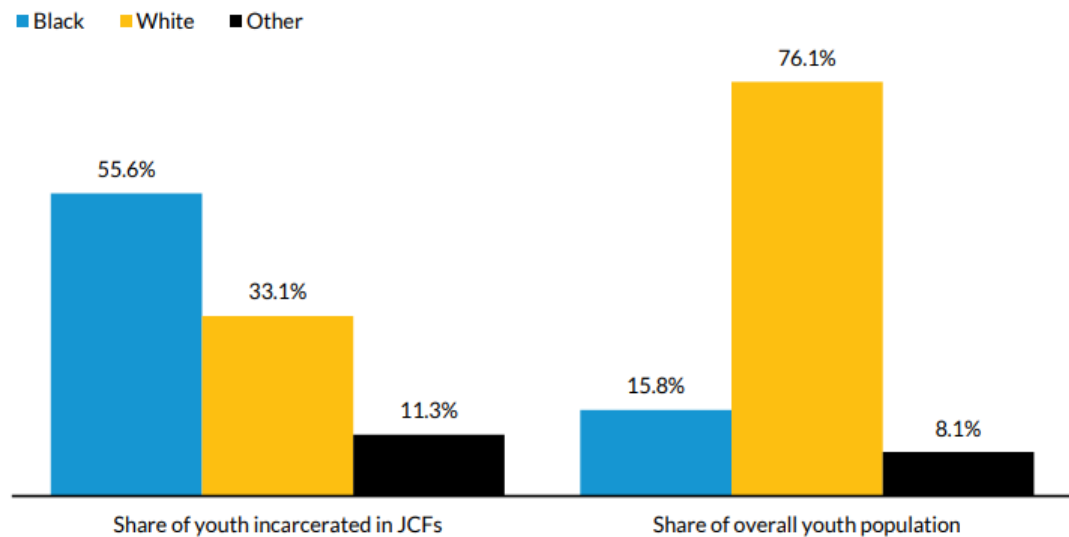
Due to minor differences in sources for youth population data, rates of detention, commitment and incarceration may vary slightly from those on the [Easy Access to Juveniles in Residential Placement](#) website.

Ohio Disproportionately Incarcerates Black Youth

Most youth committed to JCFs in Ohio are Black (figure 6). In 2018, 56 percent of youth committed to JCFs in Ohio were Black (DYS 2018a), even though only roughly 16 percent of youth in the state were Black.⁸

FIGURE 6

Racial Composition of JCFs versus Overall Youth Population, 2018

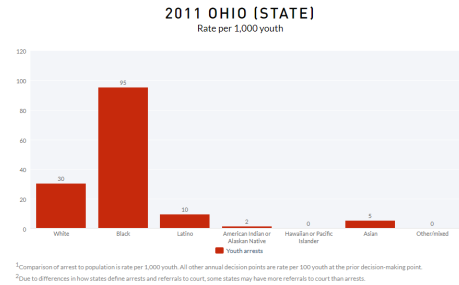
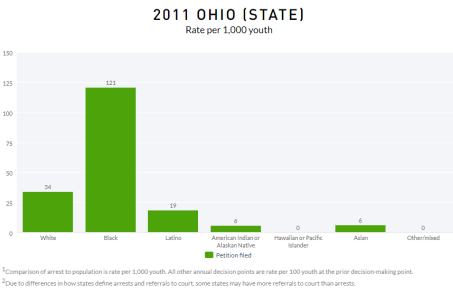
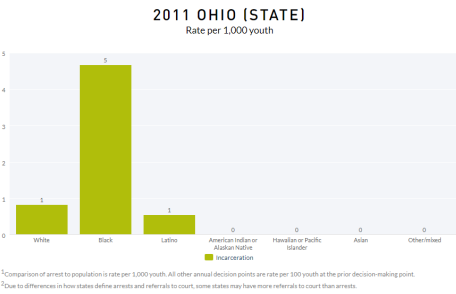
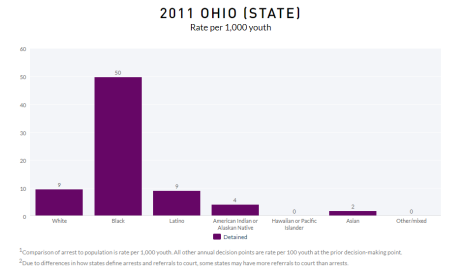
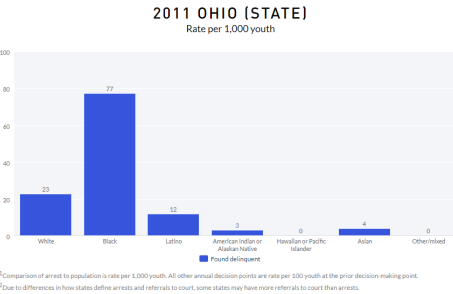
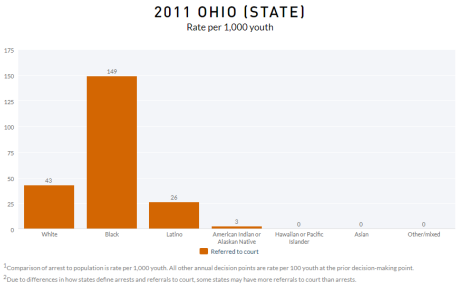
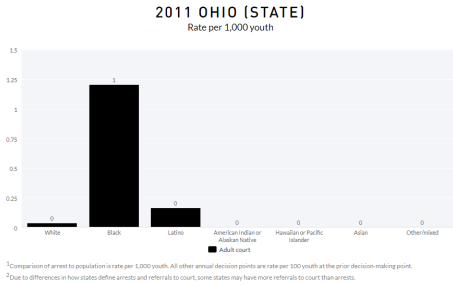


URBAN INSTITUTE

Sources: DYS (2018a); "Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin: April 1, 2010 to July 1, 2018," US Census Bureau.

Notes: "Youth population" refers to youth younger than 18. Incarcerated youth are youth under JCF supervision, which includes a few who are older than 20.

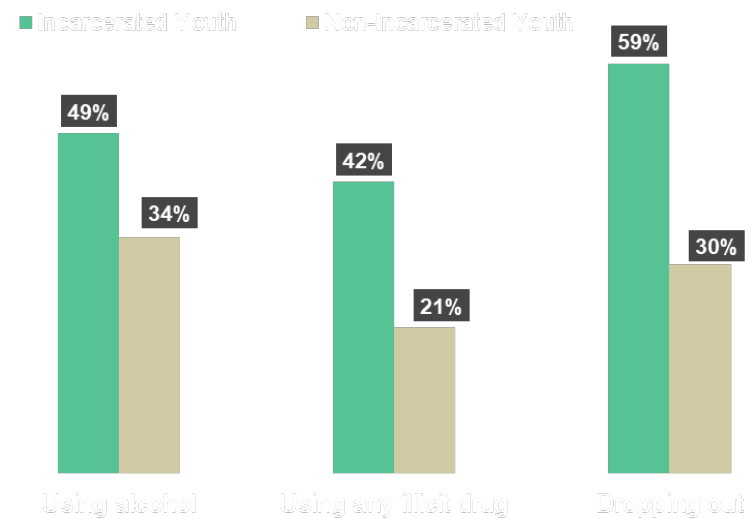
The disproportionate representation of Black youth at all youth legal system decision points in Ohio.



The impact of detention extends beyond the time the youth is in custody.

- Youth who are held in detention are more than three times as likely to subsequently be found guilty and incarcerated than similar peers
- After release, incarcerated youth are more likely to drop out of school and use drugs & alcohol

Likelihood Of Behavior: Incarcerated Vs. Non-incarcerated Youth



ORIGINAL SOURCES: Office of State Courts Administrator, Florida Juvenile Delinquency Court Assessment (2003); LeBlanc, (1991), "Unlocking Learning" in Correctional Facilities, Washington, D.C Substance use, abuse, and dependence among youths who have been in jail or a detention center: The NSDUH report, The National Center on Addiction and Substance Abuse (CASA) at Columbia University, (2004); America's Promise report on national rates of high school dropouts: www.msnbc.msn.com/id/23889321/; Tremblay, R.E., Gatti, U., & Vitaro, F. (2009). *Iatrogenic Effect of Juvenile Justice*. The Journal of Child Psychology and Psychiatry, 50:8, 991-998.

Collateral Consequences

Financial penalties

Public benefit loss

Driver's license suspension

Firearm possession restrictions

Economic immobility

Record

Loss of Support network

Housing

Employment

Education

Trauma and Continued Stigma





What Interventions Are Successful?

Improving Data Systems

Raising the Age of jurisdiction

Diversion

Re-entry planning and supports

Removing financial penalties

Providing educational opportunities

Access to housing support

Increasing access to record sealing, expungement, and vacatur

What Can You
Do?



Get Active with the GA

Support legislation that right-sizes youth justice interventions

Tell your reps and senators (locally) that you don't want to increase penalties.

Budget bill – say no to kids going to adult prison!



Mentor!

The impact of one
positive, consistent
adult

Get involved before the
bad things happen

Presence in court



Re-Entry and Community Re- integration

Make partnerships with
facilities to engage with
kids who will be
returning home

Hire youth with records

Help with practical
skills-building





Questions?

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